
WISCONSIN EDUCATION ASSOCIATION COUNCIL

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Testimony of Troy Polson
Senate Education Committee
SB 468
Thursday, February 18, 2010

Good morning ladies and gentlemen:

My name is Troy Polson and I have been a Special Ed teacher in DePere, Wisconsin, for the past 9 years. I earned undergraduate degrees in Psychology and Sociology in 1989 and returned to college to get teacher certified at UW-Green Bay and special education certified at UW-Oshkosh.

I have previously been:

1. a counselor at a therapeutic wilderness program in Tennessee
2. a platoon sergeant in the National Guard Youth Challenge Program
3. an overnight supervisor at a runaway shelter in Honolulu
4. and a Youth Corrections Officer for the state of Hawaii.

I have over 15 years of direct experience working with troubled youngsters.

I originally chose my current career as a Special Ed teacher because I wanted to help troubled children achieve success in school and the community before getting too far into the justice system. I am here **today** because my education, training, and personal experience tell me that Senate Bill 468, **as it is written**, is not in the best interest of the children it is intended to serve or for the other children in their classrooms.

I have read the cases involving students secluded in inadequate settings, and of the girl who died at a treatment facility due to unsatisfactory restraining techniques. It saddens me to know these and other incidents took place and I understand that changes needed to be made to prevent future occurrences.

I also agree with several key points made by the bill's writers and the disability rights organizations who back it, such as standardized requirements for time-out rooms, documentation of seclusion and restraint, crisis response procedures, notification to parents, and the use of positive motivational techniques and supports for students with disabilities.

I also believe in developing a personal relationship with students, showing them I care about them as people, and doing whatever it takes to help them grow in their academic and interpersonal skills. I believe it **because it's what I do!** My co-workers and I have 1 goal:
to increase the success of our students and every other child in their classrooms!

Senate Bill 468, to quote, "*restricts dangerous practices in restraining and secluding students, sets standards for training, and requires documentation and reporting to parents and the Department of Public Instruction.*" This is a noble and justified mission, but there are **specific items** in the bill that are counterproductive to its intent.

Mary Bell, President
Dan Burkhalter, Executive Director

The first of these involves training. The program our school district chose teaches important de-escalation and crisis management methods. But it also teaches specific techniques used to control a student who has become assaultive, and these are **out-dated police arresting techniques** that are not conducive to injury prevention. I am certain that a large portion of Wisconsin schools get their certification through this same commercial vendor. I personally teach modern, gentler, less-restrictive techniques at a business separate from the school setting, and I know the difference between safe and unsafe methods of restraint. Requiring this training for school employees **does not guarantee** the quality of instruction, because the methods taught can be severely inadequate. Also, the bill states that a person can be certified for 24-months, but that is not enough to ensure safe procedures will be followed. Short practice sessions need to be conducted several times per school year. Neither the bill nor DPI addresses this shortcoming.

Secondly, the bill specifically references Positive Behavior Interventions and Supports (a.k.a. PBIS.) The documents released by the bill's supporters said that

*"Research shows that PBIS can **prevent** the need to restrain and seclude students...specifically: PBIS is an effective method of managing behavior to avoid emergency situations that lead to restraint or seclusion."*

PBIS is an offshoot of Operant Conditioning or Behavior Modification, the B-Mod made famous by psychologist Dr. B.F. Skinner. While strongly believing in influencing students using positive reinforcement, even Dr. Skinner recognized that it may not work in every situation. When an autistic or ED student becomes enraged and loses control, Badger Bucks or good-behavior tokens are not going to affect his behavior. On my job I use behavior plans I designed for disabled students every day, but they **cannot prevent** 100% of the destructive tantrums that overcome these students. Positive behavior intervention works but it is not a cure-all.

Lastly, this bill restricts the use of seclusion and restraint to situations identified as emergencies, defined as:

situations in which it is necessary to control a pupil's spontaneous or unpredictable behavior when that behavior poses a clear and present danger of serious physical harm to the pupil or to others.

I have personally witnessed students hit, kick, bite, scratch, throw pencils, chairs, and textbooks, and flip over heavy desks with no concern for the safety of other children or respect for other children's property. I have seen classrooms that looked like a tornado touched down with every desk overturned and countertops stripped of all contents.

A reasonable person would realize that a student brandishing a knife or a sharpened pencil should be stopped before harming himself or others. But what is not so easily ascertained is that **disabled students can develop a self-reinforcing chain of behaviors** that starts with academic or other frustration and escalates quickly into a full-blown destructive tantrum. To teach students alternative (replacement) behaviors, the cycle of behaviors must be stopped before violent actions become a habitual part of that chain.

Failure to intervene is, to me, **morally unjust and scientifically unsound**. When a trained and insightful teacher sees the signals of an impending meltdown, the student should be encouraged to leave the classroom in order to calm down and verbally process his or her frustration before re-entering the classroom. This is the beginning of behavior change. But

sometimes the behavior escalates too quickly. The student only wants to lash out at the source of frustration and does not want to exit the classroom. Under this bill, escorting the student from the room could constitute **restraint** because it might involve *"interfering with the free movement of the child's limbs and body."* If the student were taken to a Special Education classroom, that would constitute **seclusion** because it *"involuntarily confines the child in a room or area while physically preventing him or her from leaving."*

There are many implications to classroom tantrums. When classmates are repeatedly exposed to a peer's violent tantrums, their willingness to interact with the child is reduced, leading to feelings of rejection and alienation. I have an autistic student who is afraid to return to class after tantrums because he fears classmates will reject or ridicule him. I know this because he told me so.

Normal levels of classroom noise and activities can be overwhelming to some students. Students with disabilities often need **privacy** to process their thought, feelings, and behaviors. By removing an emotionally-charged student to a safe setting where trained adults monitor and encourage the student's return to self-control, negative effects are minimized. As behavior change begins to take place, students are taught to remove themselves from classrooms and go to a safe spot rather than "exploding," but we often have to guide them through the process until it feels natural for them. Many children on the autism spectrum seek out voluntary seclusion when it is taught as a coping strategy. After my school removed a door to prevent the use of a "quiet room" used only rarely for time-out, a female student with Fragile X Syndrome asked why the door was gone and worried aloud "How am I going to get away from all the noise?" She had learned a coping strategy and it was taken away to prevent the use of seclusion.

Last year we had an autistic 11-year old run out of school without a coat in the middle of winter, cross a 4-lane highway, and run 500 yards across Claude Allouez Bridge over the Fox River. School staff had been told not to restrain him from running out of the building. If not for a concerned citizen who saw him running and the police who later found him, I'm not sure what harm may have come to him.

I have personally held the arms and legs of the same student while he was in a full-blown meltdown. When students begin to calm down I always ask if they are calm and ready for me to let go. Several times this student has said, "No. Don't let go yet." Students sometimes need help regaining control, and he recognizes this in himself.

Last week a student got angry and left his regular classroom. He entered my room, overturned 2 heavy lab tables, and threw a metal and plastic chair at another student receiving math assistance from an aide. He grabbed a box full of puzzle pieces and threw it at them. I stopped him just as he reached for another projectile. As I held his arms, he voluntarily sat on the floor and I used a technique in which I gave him active resistance while he pushed and pulled the major muscle groups of his body for 10 minutes; the student then relaxed and lay quietly for 20 minutes. When he got up we replaced the tables and he picked up the puzzle pieces. Believe it or not, this was progress. Last year he would have kicked, bit, scratched, and screamed for 30 minutes or more. At the end of that day, while waiting for his mother to pick him up, he gave me a hug. It was the first time I saw him hug anyone at school.

A co-worker who is also a parent wrote this when I mentioned that I might be testifying at a state hearing:

"Seclusion and therapeutic restraint is for your child. It is for all of the children in a classroom who deserve to learn unimpeded by other students who are out of control; but it is also for the child who needs help in this way, who needs quietness and therapeutic restraint in order to regain control over themselves that they are unable to initiate on their own. Children (both special ed. and regular ed. students) cannot be expected to come to public school and run wild with no limit on their physical behavior, and expect that learning will take place. That includes a certain amount of control over the physical body. When a student is unable to achieve this control himself, it is left to the teacher, properly trained, to restore this balance for the child, which the child needs, and often *wants*.

"In a classroom where there is no "so-called emergency" taking place, a student would be allowed to be out of control, to yell, kick and scream, to disturb the classroom by turning over desks and pounding on the door and throwing papers around the room, disrupting the learning process. Learning in this case has come to a halt for all students in the room. There is no order here, there is no learning, but there is also no emergency. If your child was in this classroom and it was allowed to happen, would you be happy with the level of your child's education? I certainly would not agree to have my child in any classroom where this behavior was allowed to take place, and as an educator, would not expect any parent to agree to this environment for their child. In effect you will tie the educator's hands with this law by allowing this to happen without any power to stop such an onslaught on the education we all expect and deserve for our children. Therapeutic restraint and seclusion are necessary in *some* instances, and to state that it can be used only in an emergency is unfair to each child in the classroom trying to learn."

In **my** 13 years as a public school **student**, I never saw anything like the tantrums that occur in schools today. The explosive behaviors we are speaking of would be out of place in a store, restaurant, or any public setting, and we need to have some leeway when a student becomes so out-of-control that other children are negatively affected. Children need classroom environments free of stress, fear, and violent disruption.

Just to be clear, I do everything I can to avoid restraint or seclusion, and I urge my co-workers to avoid them as well. I have only used restraint one time this school year. By the definition of this bill, I haven't used seclusion this year at all. But to assume that their use is never okay except to prevent serious bodily harm rejects the needs of disabled and regular education children to be safe and feel safe in their schools. I urge you to examine the provisions of this bill closely and consider the points I have made before voting on it. We owe that to all of our children.



School Administrators Alliance

Representing the Interests of Wisconsin School Children

TO: Senate Committee on Education
FROM: John Forester, Director of Government Relations
DATE: February 16, 2010
RE: Senate Bill 468 – Seclusion and Restraint

The SAA strongly opposes Senate Bill 468, relating to the use of seclusion and restraint techniques. SB 468 is highly prescriptive and mandate-driven, will impose a significant fiscal burden on school districts, and will not, if passed, result in a common sense approach to protecting the safety of all Wisconsin school children and staff.

Among other things, SB 468 imposes training and certification requirements on the safe, effective, and appropriate use of physical restraint and timeout for any school employee that may use physical restraint or a timeout on a pupil. It prescribes the appropriate use of seclusion, physical restraint, mechanical restraint and timeout as well as the circumstances under which school employees may use these techniques. The bill also requires each school to submit a written report at least annually containing a summary of each use of physical restraint and certain instances in which a timeout is used. The bill establishes procedures for the parent of a pupil to seek a hearing on or file a written complaint regarding the use of physical restraint or a timeout on that pupil.

SB 468 also requires a local educational agency to prepare a BIP (Behavior Intervention Plan) for a child with a disability who has not responded to the behavioral approaches specified in the child's IEP or if the child exhibits: 1) assaultive or self-injurious behavior, 2) behavior that causes property damage, or 3) behavior that significantly interferes with the implementation of the child's IEP. A BIP may authorize the use of physical restraint or timeout on the child, but only if the parent consents in writing to the use of physical restraint or timeout, and only if the use of physical restraint or timeout is consistent with the requirements established in this bill.

The SAA has the following major concerns about the bill:

- Federal legislation on the use of seclusion and restraint techniques has been introduced in the House (HR 4247) and the Senate (S 2860) and has considerable support. Federal law supersedes state law. A side-by-side analysis of the federal legislation and SB 468 uncovers numerous conflicts. Forcing school districts to

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administer conflicting state and federal laws would be a frustrating waste of time, energy and limited financial resources. What's more, conflicts between state and federal law are often resolved through costly litigation, which drains precious educational resources from children. The SAA recommends we postpone state legislative efforts until Congress passes legislation. **The SAA has publicly pledged to participate in a stakeholder process on a state law once federal action is completed.**

- The mandated training, reporting and other requirements imposed by the bill create a significant fiscal and operational burden that is difficult to justify at a time when schools are already cutting teaching staff and stretching resources in order to balance budgets.
- We believe that if the bill is enacted school districts will be so constrained by the bill's restrictions, and the potential liability, that they will simply turn to law enforcement whenever they face an unruly or violent student. We do not believe that this would be in the best interests of children. And yet, this concern is validated by anecdotal evidence provided by school administrators in other states that have adopted legislation similar to SB 468.

Finally, Wisconsin educators are keenly aware of the concerns surrounding the appropriate use of seclusion and restraint techniques, and our number one objective is the safety of all students and staff. The Wisconsin Council of Administrators of Special Services (WCASS), in partnership with the Wisconsin Education Association Council (WEAC), the Wisconsin Association of School Boards (WASB), the Wisconsin Association of School District Administrators (WASDA), the Association of Wisconsin School Administrators (AWSA), and the Department of Public Instruction (DPI), proactively developed a training program on the appropriate use of seclusion and restraint in special education. **This training is taking place in school buildings throughout Wisconsin. To date, 416 training sessions have taken place.**

In addition, other organizations are also conducting the type of "evidence-based training" identified in the bill. For example, there are currently 484 active Wisconsin instructors training people (school, social services, law enforcement, corrections and other personnel) in non-violent crisis prevention and intervention (NVCPI). **For the eighteen month period ending December 31, 2009, 45,083 people were trained in NVCPI in Wisconsin.**

Thank you for your consideration of our views. If you should have any questions regarding the SAA's position on Senate Bill 468, please call me at (608) 242-1370.



The Wisconsin Council of Administrators of Special Services

Wisconsin Council of Administrators of Special Services Board Motion on SB 468 and AB 682

Whereas, Wisconsin Council of Administrators of Special Services (WCASS) has been contacted by the Wisconsin Department of Public Instruction (WDPI) to participate in four stakeholder meetings to discuss proposed legislation contained in LRB-2425 regarding the use of seclusion, restraint and aversive intervention in schools; and

Whereas, WCASS recognizes the safety of all students in our public schools is a solemn responsibility; and

Whereas, WCASS recognizes the safety of all staff in our public schools is a solemn responsibility; and

Whereas, WCASS has steadfastly promoted, developed and supervised training and best practices as set forth in the *WDPI Directives on the Appropriate Use of Seclusion and Restraint in Special Education Programs*; and

Whereas, WCASS actively collaborates with WDPI in promoting *Positive Behavioral Interventions and Supports*, as well as other behavioral support systems for all students in Wisconsin public schools; and

Whereas, WCASS anticipates federal guidance and regulation regarding the appropriate use of seclusion and restraint to be forthcoming; and

Whereas, WCASS finds the proposed Wisconsin legislative action to be unnecessary and fiscally irresponsible; and

Therefore, be it resolved that WCASS will respectfully decline participation in a stakeholder's advisory effort at this time because it would be inappropriate for Wisconsin to take action until this issue is resolved at the federal level.

Motion approved October 29, 2009



The Wisconsin Council of Administrators of Special Services

February 18, 2010

Thank you Chairman Lehman for the opportunity to discuss the important issues related to Senate Bill 468.

I am Gary Myrah, the director of special services for the Port Washington-Saukville School District. I am also the president of the Wisconsin Council of Administrators of Special Services and the chair to the Wisconsin State Superintendent Advisory Council on Special Education.

My testimony today is as the president of WCASS.

I have been a director of special services since 1978 and am also a licensed school psychologist. The State of Wisconsin has evolved in those years. When I began in the profession, it was common for children with severe autism to be placed in institutions and were shunned from the public. Today we are providing successful opportunities for children with severe autism in public schools in their own communities. We have also improved techniques and strategies working with students with emotional disabilities and have higher success rates than years past.

As we have reviewed the components of the Senate Bill 468 related to Positive Behavior Interventions and Supports and Restraint and Seclusion, we wish to focus on the following themes:

1. As professional educators we do not support nor defend the misuse of seclusion and restraint, and our greatest concern is the safety of our children and our faculty.
2. Because of the concern of the reported cases that ended tragically we began a campaign of training administrators and faculty on
 - a. the WDPI Directives related to Seclusion & Restraint (400+ recorded trainings throughout the State), and
 - b. Non-violent Crisis Prevention and Intervention (since July 1, 2008, 11,234 educators have been trained)
3. School districts throughout Wisconsin have responded positively to the voluntary development of PBIS systems in districts (185 schools in 50 Wisconsin school districts have been trained as of Jan.27, 2010).
4. Our collective organizations have serious concerns regarding the passage of State legislation when we believe there will soon be federal legislation.

In addition to these themes, the WCASS Executive Board passed a resolution on October 29, 2009 that our organization would participate in a stakeholders advisory committee after the resolution of federal legislation is enacted. We are concerned with the multitude of conflicting elements between the proposed State legislation and the proposed federal legislation that is found in HR 4247 / S2860.

When conflicts occur between federal and State statutory language it results in opportunities for attorneys to come forward and litigate for interpretation. Wisconsin educators have proven it is not necessary to have a law to prescribe that which has already been initiated (i.e. extensive training in seclusion, restraint as well as PBIS). It is sad to believe a primary initiator of this bill is an attorney who seems to be using the tragedy of the misuse of restraint during the heat of conflict as a means to profile school employees as evil people.

The leadership of the Wisconsin Department of Public Instruction and the educational organizations of Wisconsin are stepping forward to resolve this issue. We also have data that demonstrates the responsiveness of school districts throughout the State to initiate change without statutory language.

We therefore ask for your support to eliminate SB 468.



The Wisconsin Council of Administrators of Special Services

Good Morning,

I am Nissan Bar-Lev, Director of Special Education for CESA 7, a consortium of 38 school districts in northeast Wisconsin, a member of the Wisconsin School Administrative Alliance, and the co-author of ***The Appropriate Use of Seclusion & Restraint Practices in Special Education Programs*** – a training program for school staff.

The School Administrative Alliance recognized that the best way to ensure the appropriate use of seclusion and restraint in the classroom - is to train staff in every district.

Toward this end, representatives from the teachers union (WEAC), and representatives from the associations of the Building Principals, District administrators and Special Education Directors – with collaboration with DPI staff – put together (about 2 years ago) this training material that is based in part on the DPI directives and on research-based best practices from around the country.

Essential elements of this training:

- The dignity and safety of our children and school staff are paramount;
- Seclusion and restraint are implemented as a last resort, when other less invasive strategies have been tried and found ineffective, and/or the behavior is likely to result in injury to the student or others;
- When used, seclusion and restraint should be part of an Individual Educational Program – providing a platform for communication between parents and staff.

Since July 1, 2008, well over 450 trainings on ***The Appropriate Use of Seclusion & Restraint Practices in Special Education Programs*** have been documented on our website. In addition to these trainings, The Crisis Prevention Institute Inc. reported to us that since July 1, 2008, 11,234 school staff members have been trained in Non Violent Crisis Prevention. Of these 11,234 staff members, 7,817 were trained for the very first time, while some 3,417 staff members were provided with refresher courses.

All of this was accomplished without state law. The state of Wisconsin did not have to enter into our classrooms and tell us how to teach. We, as professional educators, recognized the need to strengthen our own members' knowledge/techniques/strategies – as the population that we are entrusted to educate – is manifesting an increasing amount of mental health challenges.

While we understand that impending federal legislation on seclusion and restraint will soon become law, there is absolutely no need to pass conflicting state laws, like SB 468 that will "muddy the water" by increasing the potential for disputes between parents and schools and further polarize parents and schools. There is much discrepancy between the proposed federal and state laws. Additionally, the fiscal costs associated with the state law will far exceed the costs of implementing federal law.

We do not need a new state law such as SB 468 to tell us what needs to be done in the classroom. We are already training our staff, and we will continue to do so - because it is the right thing to do.

Please say "no" to SB 468.



The Wisconsin Council of Administrators of Special Services

Chairman Lehman and honorable Wisconsin Senators, I appreciate the opportunity to discuss the important issues related to Senate Bill 468.

I am Greg Nyen, the director of pupil services and special education for the Stevens Point Area Public School District. I am also on the executive board for the Wisconsin Council of Administrators in Special Services (WCASS). I have been a director of pupil services and special education for five years, was a school psychologist for five years and was a staff psychologist for the State of Wisconsin at the Northern Wisconsin Center for the Developmentally Disabled (NWC) for approximately five years. The State of Wisconsin has considered and passed much legislation during that time span. When I began my profession as a psychologist while working for the State of Wisconsin, I was responsible for the behavioral treatment plans of those children with severe autism and other disabling conditions who had grown into adults and had been placed in institutions and separated from the public many years prior. Together with a team of mental health professionals it was our responsibility to treat and prevent the maladaptive and sometimes aggressive behaviors of the then adult-aged people who were placed in the community as part of the deinstitutionalization of America but had failed placements due to the lack of support systems. At that time, no one argued that the legislation designed to provide people with disabilities a more productive life was ill-conceived or inappropriate but rather that it appeared at face value to be in the best interest of the people we served at NWC. However well-intended that legislation was, it was not successful for a small segment of the population I served and to the contrary left many disabled people without viable options for independence. It was and continues to be apparent that legislation that is not well thought out or that lacks proper support systems only compounds the problem of trying to achieve something that seemed to many as inherently right. I suggest that we are again being presented with legislation that may be well-intended but is unnecessary and is lacking forethought. **Senate Bill 468 severely limits the necessary supports for many stakeholders and will not achieve what many may hope.**

If the intent of SB 468 is to make safe our educational facilities for all students by requiring multiple layers of consent, documentation, and training relative to the application of seclusion and restraint, I would suggest to you that it will actually have the converse effect. As the leaders of our respective Wisconsin educational institutions we are committed to providing an environment that is conducive to optimal learning for all students. Some of us here before you today are responsible for advocating for that small segment of the population I referred to in my aforementioned remarks that comprises today's body of students in special education. Some of our special education students, during times of crisis, will engage in maladaptive or dangerous behaviors that put themselves and/or others in harm's way. As administrators we spend a great deal of time insuring that faculty and staff members are adequately prepared to intervene when a crisis happens. **For years we have prepared others to intervene appropriately without SB 468. Split-second decisions are influenced greatly by the amount of training and information**



WCASS

The Wisconsin Council of Administrators of Special Services received during times of crisis. There is often not sufficient time to verify whether the student or situation at that moment in time has the proposed signed parental consent behind it before intervention is necessary. **To impose the language outlined in SB 468 will create an increased level of anxiety among educators who are already fearful of looming litigation, or possible disciplinary action, which will ultimately increase the risk for injury to other students by non-action instead of immediate intervention.** Faculty and staff members that once intervened appropriately will now be more apt to take a hands-off approach and defer to law enforcement.

The continuing reductions in funding for education mean that fewer schools are able to support the presence of Police Liaison Officers (PLO). In the Stevens Point Area Public School District we are forced to reduce next year's budget by over \$7 million, thus eliminating one PLO and a part time district security position. This will create a scenario where officers will be pulled off the streets to tend to the needs of students in crisis at school buildings. The recent changes to Child Protective Services Chapter 51 language mandate that prior to police transport for a child in crisis a contact with the county human services department must be made to determine viable options for potential treatment. **During times of constricting funds at the state, county and local level legislation such as SB 468 will create a bureaucratic bottleneck during times of crisis.** The demand for an increased response from local law enforcement officers will strain systems that are struggling to maintain employees while funding streams dwindle. In rural areas where there is no local law enforcement present a significant period of time may lapse before support from the county may arrive. This lapse in response time is likely to escalate situations that are already dangerous therefore requiring an intervention upon arrival that will likely be more intense than if addressed at the point of original breakdown.

Finally, SB 468 will restrict the access of students with certain behavioral tendencies, no matter how infrequent, to a more restrictive environment from the one in which they once enjoyed and flourished. As special education placements have evolved over time to a more inclusive environment that benefits all students, this trend will be greatly diminished if not come to a complete halt. Whether prevented by the lack of parental consent as required by SB 468 or by the hesitation or refusal of faculty and staff to intervene when confronted with a crisis situation, teachers, students and parents will be less likely to want students that may exhibit any potential dangerous behavior to be integrated into their classroom or the classrooms of their students. It will not take long before fear will dictate that students who exhibit verbal aggression or threaten physical aggression will be ostracized just the same for fear they may jeopardize the safety of others as well. **SB 468 is not well thought out and will lessen the quality of life for many special education students.**

In summary, SB 468:

- Lacks forethought and consideration for the effect on peripheral systems of support,



The Wisconsin Council of Administrators of Special Services

- Will create an increased level of anxiety over anticipated response to crisis situations,
- Will create the perception of the need for intervention by law enforcement,
- Will lessen, not strengthen, the independent and overall functioning of some students with disabilities.

By not supporting SB 468 you are in fact supporting students with disabilities.



The Wisconsin Council of Administrators of Special Services

February 18, 2010

Distinguished Chairman Lehman and Honorable Senators:

Thank you for your long-standing concern and distinguished service to the benefit of all the children of Wisconsin served by our public schools. Thank you especially today for your concern for the safety of all those students, which is our essential and shared focus in your hearing today regarding Senate Bill 468.

My name is David Kwiatkowski and I am here today to testify on behalf of the Wisconsin Council of Administrators of Special Services as the President-Elect of that organization. I have also served on the Wisconsin School Administrator's Alliance Legislative Committee for the past ten years and can attest to the shared commitment of that alliance to the testimony provided today by the leadership of WCASS. I have been a special educator for thirty years and a special education administrator for twenty of those years. I currently serve as the Executive Director of Special Education for CESA 8. I am also currently a dissertator at UW-Milwaukee completing my doctoral research on effective school improvement practices demonstrating in small rural schools. My entire career as an educator has been devoted to the service of small rural schools and their students in Wisconsin. I have served as a school board member for ten years for one of those small rural school districts in Crivitz.

In order to be most respectful of the Senators' time and attention today, I will not reiterate the consistent and shared concerns that WCASS and the SAA have for SB 468 as expressed by my colleagues here today and undoubtedly through the voluminous written testimony that you will receive from public educators and stakeholders across the state regarding that bill. Rather, I would like to alert the committee to the unique perspectives and potential problems faced by of the 230 small, primarily rural and isolated school districts across Wisconsin related to SB 468, which I hope you find me credible to provide.

Those small rural school districts have suffered most critically from sharply declining financial resources related to our failing state school finance system. Each year, administrative teams and school boards have agonized over which valuable educational services will need to be trimmed or cut in order to meet shrinking budgets in the face of the growing needs of our students, parents and communities. Those school districts can least afford any additional costs from another unfunded mandate, particularly those that are redundant, conflicting, and unnecessary as those forwarded by SB 468. The educationally relevant and appropriate provisions outlined in SB 468 are already available and in practice in even these smallest of rural and isolated school districts such as Goodman-Armstrong Creek. They can however ill-afford to waste precious staff time and financial resources on more redundant, inflexible and expensive training

activities and increased meetings and paperwork requirements for the supposed benefit of parents, who often find these as inconvenient, confusing and frustrating, themselves. They especially can not afford to waste precious time and monetary resources intended for use on high quality instruction and pupil services on the litigation that this bill will undoubtedly inspire through its proposed requirements that will come in conflict with pending federal legislation. In short, SB 468 brings no added value to the practice of appropriate seclusion and restraint for the purposes of student and staff safety, but promises excessive and unnecessary costs to these already financially struggling small school districts.

The threat of litigation also promises to make small rural schools less safe for all students and staff, rather than more so. These threats of litigation are likely to interfere with small schools' efforts to foster and maintain close trusting relationship with parents in their districts while they undermine the calm, confident and competent actions of our staff, as they face crisis situations related to the safety and security of all their students. If staff and administration are confronted with the likelihood of sanctions and litigation each time they are called to act to protect students from themselves and others in the school setting, it can be expected that more errors and omissions will occur, rather than less. This in turn will leave more innocent students at-risk, undermining the trust and confidence of the larger group of parents and students in these communities. If schools are forced to rely on law enforcement to intervene in such crisis situations, because of the threat of litigation, small, rural and isolated school districts will find it most difficult to keep students safe. This is due to the long response time for county sheriff's departments or part-time municipal law-enforcement which rarely can be brought on-site in less than an hour, if available at all in that school day. Even parent intervention, when available and willingly offered, can rarely be provided expediently in these geographically large districts. It is therefore most essential that well-trained staff and administration in small and under-resourced schools not be burdened with superfluous and threatening procedural requirements in order to act quickly and effectively for the protection and safety of all their students.

On behalf of the Wisconsin Council of Administrators of Special Services, the Wisconsin School Administrators Alliance and the 230 small school districts, their students, parents and staff, I ask the honorable Senators of the Education Committee to defeat or delay any action on the appropriate use of seclusion and restraint techniques in the State Senate until such legislation can be effectively aligned to duly authorized federal legislation. WCASS and the SAA pledge to participate and expedite the stakeholders' process on that state legislation once federal action is complete. WCASS and the WI DPI can be trusted to continue to be vigilant and proactive in their appropriate training and supervision of safe and appropriate use of seclusion and restraint techniques as necessary for the safety of all students and staff.

Thank you again to your time and attention to this critical issue for the safety of all students and staff in Wisconsin public schools. and especially our small, financially struggling school districts.



The Wisconsin Council of Administrators of Special Services

In brief:

- SB 468 brings nothing new to the provision of appropriate seclusion and restraint to small rural school districts except the threat of costly litigation;
- Small rural school districts can least afford another unfunded mandate that will bring no added value to instructional outcomes for our students and especially to one that promises costly litigation over discrepancies with federal legislation;
- The threat of litigation borne of SB 468 will make small, rural school districts less safe for all children by interfering with more proactive, positive relationships with parents and by encouraging inaction and deferment of crisis interventions to outside, difficult to mobilize authorities and / or parents who already overwhelmed by the responsibilities of parenting children with such severe needs;
- The State of Wisconsin, its school children and parents, especially those in small, rural school districts, would be better served if the State Senate delayed legislation on the appropriate use of seclusion and restraint until it can be effectively aligned with authorized federal legislation.

The Preventing Harmful Restraint and Seclusion in Schools Act will establish minimum safety standards in schools, similar to federal protections already in place in hospitals and other community-based facilities. The bill uses definitions from existing law and creates new definitions relevant to schools:

TERM	SUMMARY OF FEDERAL DEFINITIONS	SUMMARY OF STATE DEFINITIONS
Aversive intervention		Deliberate action, including physical restraint, seclusion, and timeout, taken by a school employee to establish a negative association between certain behaviors and the deliberate action.
Chemical Restraint	A drug or medication used on a student to control behavior or restrict freedom of movement that is not prescribed by a licensed physician for standard treatment of the student's medical or psychiatric condition and administered for that purpose as prescribed.	
Emergency		A situation in which it is necessary to control a pupil's spontaneous or unpredictable behavior when that behavior poses a clear and present danger of serious physical harm to the pupil or to others and cannot be immediately controlled by a less restrictive technique than the one used by a school employee certified under sub. (4) (c). "Emergency" does not include a situation in which a pupil uses profanity or threatens physical harm to himself or herself or others unless the pupil demonstrates a means of carrying out the threat.
High degree of negligence		Means criminal negligence, as defined in s.939.25 (1). <i>In this section, "criminal negligence" means ordinary negligence to a high degree, consisting of conduct which that the actor should realize creates a substantial and unreasonable risk of death or great bodily harm to another, except that for purposes of ss. 940.08 (2), 940.10 (2) and 940.24 (2), "criminal negligence" means ordinary negligence to a high degree, consisting of conduct that the actor should realize creates a substantial and unreasonable risk of death or great bodily harm to an unborn child, to the woman who is pregnant with that unborn child or to another.</i>
Mechanical Restraint	(from Public Health Service Act) The use of devices as a means of restricting a student's freedom of movement.	A device that restricts a pupil's freedom of movement or normal access to a portion of his or her body and that the pupil cannot easily remove. "Mechanical restraint" does not include a protective or stabilizing device that is prescribed by a health care professional for a child with a disability in accordance with the child's individualized education program.
Physical Escort	(from Public Health Service Act) The temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a student who is acting out to walk to a safe location.	
Physical Restraint	(from Public Health Service Act) A personal restriction that immobilizes or reduces the ability of an individual to move his or her arms, legs, or head freely.	A restriction imposed by a person that immobilizes or reduces the ability of a pupil to freely move his or her arms, legs, or head. "Physical restraint" does not include briefly holding a pupil to calm or comfort the pupil, holding a pupil's hand or arm to escort the pupil safely from one area to another, or intervening in a fight.
School	Public or private early childhood, elementary and secondary schools and school programs that receive support in any form from federal education funds. Head Start programs will also be included.	
School Personnel	(from Elementary and Secondary Education Act) Includes teachers, principals, administrators, counselors, social workers, school resource officers, psychologists, nurses, librarians, and	

other support staff who are employed by a school or who perform services for the school on a contractual basis.

Seclusion (from Public Health Service Act)
A behavior control technique involving locked isolation, not including a time out.

A behavioral control technique that involves placing a pupil in a setting from which the pupil is incapable of leaving.

Student A child enrolled in a school as defined in the bill and, in the case of a child enrolled in a private school or private program, who receives support from federal education funds. Includes both students with and without disabilities.

Time Out (from Public Health Service Act)
A behavior management technique that is part of an approved treatment program and may involve the separation of the student from the group, in a non-locked setting, for the purpose of calming. *Time out is not seclusion.*

A behavioral management technique administered by a school employee that involves the separation of a pupil from his or her class and the placement of the pupil in a timeout room.

Timeout room

An enclosed setting, or other isolated area that is not a classroom, that is used for timeout and from which a pupil is capable of leaving

OTHER DIFFERENCES

IEP provisions The use of physical restraint or seclusion as a planned intervention shall not be written into a student's education plan, individual safety plan, behavioral plan, or individualized education program (as defined in section 602 of the Individuals with Disabilities Act (20 U.S.C. 1401)). Local educational agencies or schools may establish policies and procedures for use of physical restraint or seclusion in school safety or crisis plans, provided that such school plans are not specific to any individual student.

The individualized education program of the child includes a behavioral intervention plan that permits the use of physical restraint and the child's parent has consented in writing to the use of physical restraint in the circumstances under which physical restraint is proposed to be used.

COMPLAINTS.

- a) A parent of a child with a disability, or the attorney representing the child, may do any of the following:
 1. File a written request for a hearing regarding the use of physical restraint or timeout on the child in the manner provided under s. 115.80 (1) (a) 1m. and 2.
 2. Within one year after the parent learns of the use of physical restraint or timeout on the child, file a written complaint regarding the school's compliance with this section with the local educational agency. The parent, or the ATTORNEY REPRESENTING the child, shall provide a copy of the written complaint to the department. The local educational agency shall respond to the complaint within 15 days after receiving the complaint. The parent, or the ATTORNEY REPRESENTING the child, may, within 30 days after the determination of the matters in the complaint under this subdivision, appeal the determination of the local educational agency to the state superintendent. The state superintendent shall review the local educational agency's compliance with this section.
- b) The parent of a pupil who is not a child with a disability, or

Complaints & Attorneys

the ATTORNEY REPRESENTING the pupil, may do any of the following:

1. Within one year after the parent learns of the use of physical restraint or timeout on the pupil, file a written request for a hearing with the school district or, in the case of a pupil enrolled in a charter school under s. 118.40 (2r), with the operator of the charter school or, in the case of a pupil enrolled in a private school participating in the program under s. 119.23, with the governing body of the private school.

The parent, or the ATTORNEY REPRESENTING the pupil, shall include in the request the name of the pupil, the address of the residence of the pupil, the name of the school the pupil is attending, a description of the nature of the problem of the pupil relating to the use of physical restraint or timeout, including facts relating to the problem, and a proposed resolution of the problem to the extent known and available to the parents at the time.

The parent or ATTORNEY REPRESENTING the pupil shall provide the department with a copy of the request. The school district, operator of the charter school, or governing body of the private school shall hold a hearing on the matters contained in the written request in the manner established by the department by rule.

The parent or ATTORNEY REPRESENTING the pupil may appeal a determination received under this subdivision to the state superintendent. The state superintendent shall review the compliance of the school district, operator of the charter school, or governing body of the private school with this section.

- c) Within one year after the parent learns of the use of physical restraint or timeout on the pupil, file a written complaint regarding the use of physical restraint or timeout on the pupil with the school district or, in the case of a pupil enrolled in a charter school under s. 118.40 (2r), with the operator of the charter school or, in the case of a pupil enrolled in a private school participating in the program under s. 119.23, with the governing body of the private school.

The parent, or the ATTORNEY REPRESENTING the pupil, shall provide a copy of the written complaint to the department. The school district, operator of the charter school, or governing body of the private school shall respond to the complaint within 15 days after receiving the complaint. The parent or ATTORNEY REPRESENTING the pupil may, within 30 days after a determination of the matters in the complaint under this subdivision, appeal the determination to the state superintendent. The state superintendent shall review the compliance of the school district, operator of the charter school, and governing body of the private school with this section.

Physical restraint or seclusion will *only* be allowed when *all* the following conditions are met:

Summary of
conditions

1. There is imminent danger of physical injury;
2. Less invasive interventions wouldn't work to protect the student or others from injury;
3. No mechanical devices are used;
4. Staff are trained by a state-approved training program; and
5. Staff members are monitoring the student closely.

Physical restraint or seclusion are *prohibited* when used:

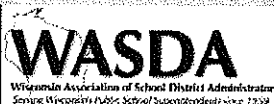
Summary of
Prohibitions

1. For discipline or convenience;
2. As a therapeutic intervention;
3. For any period of time that extends past the threat of imminent danger; and
4. By untrained staff, with rare exceptions for unavoidable circumstances, when no trained staff are available and the threat of imminent danger exists.

The Appropriate Use of Seclusion & Restraint Practices in Special Education Programs

**Developed by WCASS with the
Cooperation of SAA, AWSA, WASDA,
WEAC, and WDPI**

September 2008



*Great Schools benefit
Everyone!*

The “*Appropriate Use of Seclusion & Restraint*”, detailed in this presentation, are based in part on the Wisconsin Department of Public Instruction publication “*Directives for the Appropriate Use of Use of Seclusion and Physical Restraint in Special Education Programs*”, and the Wisconsin Council of Administrators of Special Services (WCASS) 2008 position paper. Among the WCASS position paper’s eight critical elements of ensuring appropriate use of seclusion & restraint are these elements:

- The dignity and safety of our children and school staff are paramount;
- Seclusion and restraint are implemented as a last resort, when other less invasive strategies have been tried and found ineffective, and/or the behavior is likely to result in injury to the student or others;
- When used, seclusion and restraint should be part of an Individual Educational Plan.

Organizations Supporting the Use of These Materials

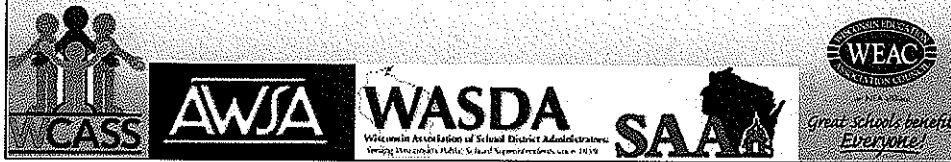


The following organizations are supporting the use of this PowerPoint as a training tool to insure proper use of seclusion and restraint in special education. These organizations include:

1. School Administrators Alliance (SAA) - The Political Umbrella of WASDA, AWSA, WASBO and WCASS.
2. Wisconsin Association of School Districts Administrators, representing the interests of **433 District Administrators**.
3. Association of Wisconsin School Administrators, representing the interests of **1,900 school principals**.
4. Wisconsin Council of Administrators of Special Services, representing the interests of **400 directors of special services**.
5. Wisconsin Education Association Council (Teachers' Union), representing the interests of **97,000 members**.
6. In collaboration with the State Education Agency - Wisconsin Department of Public Instruction. This PowerPoint presentation was developed with the gracious support of DPI staff.

Purpose

- This training is designed to provide information to educators in the appropriate use of:
 - Seclusion
 - Physical Restraint
- Based on DPI's Directives and WCASS' Position Paper.



*[Note to presenters: It is important to share this information about seclusion and physical restraint, including protective or stabilizing devices, at least annually with all building staff who come in contact with students with disabilities. This includes special education staff, regular education staff, pupil services staff, administrators, paraprofessionals and all building support staff, including bus drivers, custodians and food service workers. **[Please provide staff with a copy of the PowerPoint slides and notes for their reference].***

Seclusion and restraint are hot button topics and the use of both is highly controversial. There have been several media (TV and newspaper) reports, as well as formal complaints filed with WDPI. It is important to be cautious in using either of these interventions, and to maintain the safety and dignity of students and staff.

This PowerPoint is intended as an overview of the **directives** developed and disseminated by the Wisconsin Department of Public Instruction (WDPI).

Seclusion (Definition)

- Removing a student from the general activity and isolating him/her in a separate supervised area/room for a set period of time or until the student has regained control.
- *Does not include the following:*



Definition from **WDPI Directives for the Appropriate Use of Seclusion and Physical Restraint in Special Education Programs**, WI Department of Public Instruction, September 2005. Available on the DPI web site at <http://dpi.wi.gov/sped/doc/secrestrgd.doc>

There are several types of "timeout". The DPI Directives document focuses on the use of seclusion timeout (called "seclusion" from here on).

Does not include:

- **In-school suspension;**
- **Detention;**
- **Student requested break;**
- **Having student return to his/her seat;**
- **Sitting on the sidelines.**

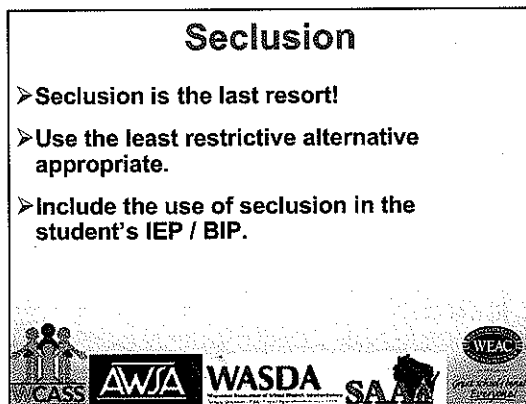


Having the student return to his/her seat, or sit on the sidelines are both types of "timeout", but are not considered "seclusion" under these directives.

Timeout can range from isolation (e.g., head down or returning to seat) to segregation (e.g., moving to a corner or a study carrel) to seclusion.

It is important to note that a room or area may have more than one purpose – timeouts, student requested break, quiet work area, etc.

When the room is used with a student whose behavior is out of control, it is a "seclusion" room for that amount of time and the directives must be followed.



- **Removing a student from the classroom activity** to a seclusion room or area is a significant intervention. Moving or transporting an out-of-control student from one location to another is considered physical restraint. It is important to have other options for addressing inappropriate behavior, and these should be considered before seclusion is used. It is important, as with any behavioral intervention, to use the **least restrictive intervention appropriate** for the situation at hand.

- **In order for timeout, including seclusion, to be meaningful**, the “time in” **needs to be reinforcing** to the student. If the student does not want to be part of the activity, then he/she may act out in order to use seclusion to escape or avoid having to participate. The use of seclusion should trigger a functional behavioral assessment (FBA) and development of a behavior intervention plan (BIP) if those are not already in place.

- **Include the use of seclusion in the student's IEP/BIP** if it is anticipated that such use will be necessary to address the student's behavior. Addressing the issue in the IEP provides an opportunity to discuss the BIP with the parent and staff, as well as to answer any questions, define when and how seclusion will be used, show the parents the space that will be used, etc. Concerns should be discussed at the IEP meeting, and parent concerns should be documented on the IEP. Every attempt should be made to avoid the use of seclusion, but safety concerns are paramount. If there was no prior indication that seclusion might be an appropriate intervention for a particular student, an IEP meeting should be held as soon as possible after the first use of seclusion so the IEP team can discuss the incident and address any necessary revisions of the IEP. Repeated use of seclusion should result in review (and revisions, if appropriate) of the FBA, BIP, and IEP.

Seclusion

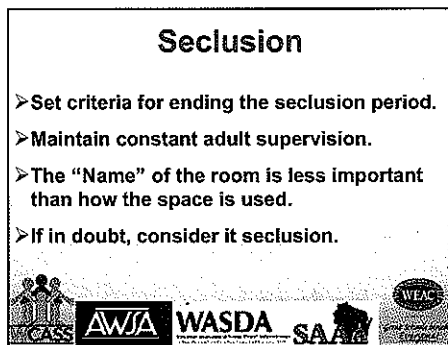
- Teach the student what he/she is to do when seclusion is going to be used.
- Foreshadow what will happen before, during and after seclusion.



• It is important to teach a student what to expect when seclusion is going to be used: Foreshadow for the student.

- What behavior(s) will result in the use of seclusion?
- What will happen before, during, and after the period of seclusion?
- What will be expected of the student?
- When and how will the period of seclusion end?

Use verbal explanations to the student when seclusion is initiated. Explain to the student – in a very business-like, matter-of-fact tone - what behavior precipitated the seclusion. You don't want to argue or debate with the student – just present the facts. Remember that seclusion should only be used as a last resort, and knowing how and why to intervene is important, as is understanding a crisis cycle. Training – which we'll touch on later – in these areas is important.



•Set **criteria for ending the seclusion period.**

(1) Fixed time: generally 15 minutes or 1 minute per year of age of the child (whichever is less) is a useful standard;

(2) A minimal duration plus additional time until the appropriate behavior occurs (be sure the student knows what the appropriate behavior is);

(3) A minimal duration plus another fixed interval (usually to ensure that the student has regained behavioral self-control); or,

(4) Demonstration of appropriate/acceptable behavior, again being clear to the student what the expected behavior is.

Note: For periods of seclusion lasting more than 15 minutes, students must have adequate access to bathroom facilities, drinking water, necessary medication, and regularly scheduled meals.

•Maintain **constant adult supervision** (e.g., visual contact) with the student while he/she is in the seclusion area. If seclusion is being used, the student is out of control and needs this restrictive intervention; therefore, it is important to continuously monitor the student.

This can be done by being in the room with the student, or observing through a window into the room. Make certain the entire seclusion area can be adequately viewed if staff will remain outside the room. If the student cannot be seen at all times and in all parts of the space, add another window or enlarge the existing one.

•The **“name” of the room** or area (e.g., “Quiet Room” or “Cool Down Room”) is less important than how the space is used. The space may have more than one use (e.g., teacher directed seclusion, student requested break, quiet area where the teacher and student can talk).

•If in doubt, consider it seclusion.

Seclusion

- **Develop written procedures and policies, which follow DPI directives.**
- **Keep a log of all incident reports.**
- **Use the data to evaluate the use of seclusion.**



•**Develop written procedures** so that the use of seclusion is consistent and planned in advance. Consider such things as what behaviors would trigger the use of seclusion, which staff can make the determination that a particular student should be secluded, how parents will be notified, what data is to be kept and where, and how the building principal and/or other administrators will be notified.

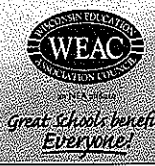
•**Keep a log or incident report** to record each use of seclusion. This should be done as soon as possible after the seclusion period is over. Several sample log pages are included in Appendix III of DPI directives or the district may develop its own. The district may wish to consider a uniform reporting system across all buildings and levels so that district-wide data can be kept and analyzed.

•**Use the data** from the log or incident report to regularly evaluate the use of seclusion and the impact of its use on student behavior (e.g., Is it being appropriately used? Is there an over-reliance on seclusion as a disciplinary response? What other intervention options are considered and used? Are there some students who are being secluded frequently, perhaps necessitating an IEP review?).

Seclusion: Physical Environment

➤ Basic School Building Codes

- Maximum density
- Lights and ventilation
- Access to exit in case of fire or emergencies



•While there are no “brick-and-mortar” requirements specific to seclusion or timeout rooms beyond the general school **building codes**, it is important to create a safe, comfortable environment. Be sure to consult with your district’s building and grounds staff, the local building inspector and/or fire department to determine if the seclusion area meets applicable codes (e.g., ventilation, lighting, access to exits, maximum density for the size of the space, etc.). The door serving the seclusion room is an exit access door providing an exit for the room. The door must be able to be opened from inside the room at all times and without the use of a key. This allows the occupant(s) of the room the ability to exit the room.

Seclusion: Physical Environment

➤ **Locks are prohibited unless the district seeks and is granted a variance. Contact:**

- Your local building or fire inspectors or
- WI Dept. of Commerce (Safety & Buildings Division)



• **Locks are prohibited** unless a variance is granted by local building or fire inspectors. If the community does not have a building inspector and/or a fire inspector, contact the Safety and Buildings Division of the Wisconsin Department of Commerce to arrange for an inspection by a field inspector.

• **Often people want a lock because students may be playing with the door.** If a student is "playing with" the door by swinging it open and closed, analyze the behavior through an FBA and address it in the BIP.

Seclusion: Physical Environment

➤ Safety & Common Sense

- Full visibility of student at all times
- e.g., carpet, electrical sockets, loose materials, safety glass



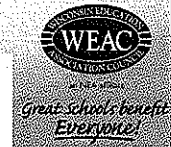
• **Constant visual supervision** of the student during the period of seclusion must be maintained. The student is out of control if he/she is in seclusion. It is important to monitor the situation constantly.

• Minimally, the seclusion room must be free of objects or fixtures with which the student could inflict bodily harm (e.g., light fixtures within reach of the student, furniture, woodwork or molding that could be pulled free, active electrical outlets, pipes, glass or windows and so on).

• Other issues might include floor coverings (carpeting rather than a hard floor surface), safety or reinforced glass and soundproofing to minimize the disruption to others in the immediate area. One way to address lighting issues (e.g., location of switches, need for a key to turn light on or off) is to use motion sensor lights.

Physical Restraint (Definition)

- Holding a student in order to restrain his/her movement; use of physical force, without the use of any device or materials, to restrict the free movement of all or a portion of a student's body.
- ***Does not include:***



This definition is part of the Wisconsin Department of Public Instruction
**Directives for the Appropriate Use of Seclusion and Physical Restraint in
Special Education Programs**, September 2005.

Available on the DPI web site at <http://dpi.wi.gov/sped/doc/secrestrgd.doc>

Does not include:

- **Comforting/calming a student;**
- **Holding a student's hand or arm to escort when student is complying;**
- **Intervening in a fight;**
- **Using protective or stabilizing devices prescribed by appropriate professionals and consistent with the student's IEP.**



Escorting a student is for the purpose of directing the student and does not include the use of force.

School personnel should physically intervene to stop a fight only if they can do so without getting injured themselves. Otherwise, they should verbally intervene and immediately seek help to stop the fight.

§ 118.31,(3) Wis. Statutes

- **School district employees may use reasonable and necessary force in certain situations.**



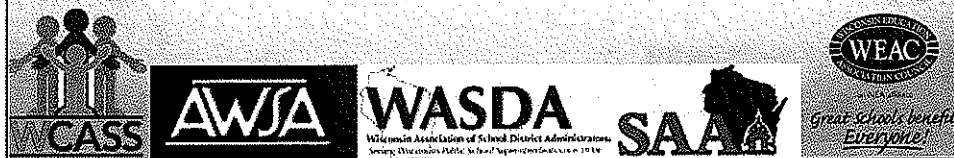
It's important to remember that Wisconsin law allows school district employees the discretion necessary to handle difficult situations. For instance, school employees are permitted to use reasonable and necessary force:

- To prevent an act that threatens physical injury to any person (a)
- To obtain possession of a weapon or other dangerous object (b)
- For the purpose of self-defense (c)
- For the protection of property (d)
- To prevent a pupil from inflicting harm on himself (f)
- To protect the safety of others (g)

In addition, school employees may use incidental, minor or reasonable physical contact to maintain order and control (h).

A Word of Caution!

- Use physical restraint only as a last resort in situations that pose an immediate danger to the student and/or others!



We cannot stress enough the need to use caution in the use of restraint. This means using it only as a last resort to avoid injury to the student or others, including staff persons doing the restraining.

Protective or Stabilizing Devices

- The use of protective or stabilizing devices is not appropriate for use in schools without medical authorization and oversight (e.g., physician, school nurse, OT or PT) and only for positioning and posture consistent with the child's IEP.



Protective or stabilizing devices include

- wheelchairs (which may have trays or belts)
- helmets used when a student is prone to seizures
- form fitting gloves to prevent a student from self-injurious behavior, such as biting him/herself
- chairs or other equipment designed to support a child with orthopedic impairments, cerebral palsy, poor muscle tone, etc.

Protective or stabilizing devices may only be used with medical authorization or oversight. This means physicians, occupational therapists, physical therapists and/or school nurses.

Note that strapping or belting a student into a Rifton chair (or other chairs) may absolutely not be used as a behavioral intervention under any conditions - either after a child misbehaves or to "prevent" misbehavior, such as running or moving around the room.

Restraint

- Use only in an emergency; e.g., immediate danger to the student and/or others.
- Do not use for verbal behavior.
- Have First Aid and CPR available.
- Include the use of "restraint" in the student's IEP/BIP.



• **Restraint should only be used in an emergency**, e.g., when there is immediate danger to the student and/or to others. An emergency is an imminent threat and may not include threats (verbal behavior = verbal intervention) or property damage unless that destruction is also causing a dangerous situation with imminent danger of injury. Restraint should only be used in an emergency. However, according to Wisconsin Statutes 118.31 (3) (d), reasonable and necessary force may be used in certain circumstances, including protection of property. You may have to make an on-the-spot decision as to how great the danger is.

• **Be sure that someone trained in the use of CPR and First Aid** is available if the individual(s) administering restraint is/are not.

• **The use of restraint should be part of the student's IEP** which should also include a positively focused behavior intervention plan (BIP) based on a functional behavioral assessment (FBA). Including the use of restraint in the IEP provides an opportunity to discuss its use with the parent and staff, as well as to answer any questions, define when and how restraint will be used, demonstrate the technique(s) to be used, etc. Dangerous behaviors and safety issues may override reluctance to use physical restraint. Concerns should be discussed at the IEP meeting, and parent concerns should be documented on the IEP. Every attempt should be made to avoid the use of physical restraint, but safety concerns are paramount. If there was no prior indication that restraint might be a necessary intervention for a particular student, an IEP meeting should be held as soon as possible after the first use of restraint, so that the team can address necessary revisions of the IEP/BIP.

- The IEP team should consider the needs of this student:
 - (1) Student's physical and medical issues, medications the student is taking, including possible side effects, and any medical and psychiatric diagnoses
 - (2) Frequency of dangerous behavior by this student and the determination of least restrictive environment (LRE)
 - (3) Specific techniques to use with this student
 - (4) Clear definitions of what behavior(s) will result in restraint
 - (5) Touch/no touch and how those issues apply to this student
 - (6) Teaching self-calming techniques as part of the BIP;
 - (7) Student's primary means of communication; (If the student being restrained uses sign language or an augmentative device as his/her primary means of communication, the student's hands will be free of restraint for at least brief periods to allow for communication unless the adult administering the restraint decides that there is likely to be harm to the student or others as a result)
 - (8) Any further evaluation that is needed
 - (9) Data collection and review procedures, including the need to reconvene the IEP team.

Restraint

- **Foreshadow for the student what will happen during restraint.**
- **Teach the student what he/she is to do during and after restraint is used.**
- **Use only for the period of time necessary.**



Foreshadow for a student what will happen if restraint is necessary.

- What behavior(s) will result in the use of restraint?
- What will happen before, during, and after the period of restraint?
- What will be expected of the student?
- When and how will the period of restraint end?

Restraint should be **used only for the period of time necessary** to accomplish its purpose, using no more force than is necessary. The specific restraint technique should be appropriate to the student's age, and be safe for the student. Once the staff person administering the restraint has determined that the student is no longer a danger to self or others, the student should be released. Have an alternative plan in the event that the student does not begin to calm down within a reasonable time period.

Restraint

- Move other students when possible rather than moving or transporting the student in crisis.
- Develop written procedures and policies which follow DPI directives.
- Keep a log of all incident reports.



• **Whenever possible, move other students** from the immediate area rather than trying to transport an out-of-control student or restrain a student while other students are in the immediate area. Moving or transporting a student is physical restraint. It is dangerous to try to move a student who is out-of-control.

• **If it is absolutely necessary to move or transport the student to another area, at least two trained staff members** should be involved. Consider the distance the child must be moved and safety for the student and others. Do not begin to move the student until staff are ready to do so and have communicated their plan to one another and to others in the area.

• **Develop written procedures** so that the use of restraint is consistent and planned in advance. Consider what behaviors would trigger the use of restraint, what staff can make the determination that a particular student should be restrained, how parents will be notified, what data is to be kept and where, what training will be required for those involved in administering restraint and how the building principal and/or other administrators will be notified.

• **A log or incident report** should be kept when physical restraint is used. Documentation is to assist in reassessment of the student, of staff, and of the program. When restraint is used, it is important to ask, "What happened and why was restraint needed?" The district may wish to consider a uniform reporting system across all buildings and levels so that district-wide data can be kept and analyzed.

Restraint

- Use the data to evaluate the use of restraint.
- Require that staff have proper training.



Use the data from the log or incident report to regularly evaluate the use of restraint and the impact of its use on student behavior.

Is it being appropriately used?

Is there an over-reliance on restraint as a disciplinary response?

Are there some students who are being restrained frequently, perhaps necessitating an IEP review?

Proper staff training should ensure that the use of physical restraint is only appropriate:

- (1) When the student's behavior is an immediate threat to his/her safety and/or the safety of others;
- (2) If there are no physical, medical, psychological or other contraindications; and,
- (3) If the staff using the restraint technique have been trained in its safe application.

Best Practices

For Seclusion and Restraint



Open Communication

- Talk to **all** staff and administration.
- Talk with parents.
- Show parents the space and/or technique.
- Determine when parents will be notified of use.
- Determine process for reporting incidents.
- Be clear about when/how it will be used.
- Address how incidents will be handled with non-school personnel or visitors.



There may be a need to provide some information on the use of restraint to all school faculty and staff so that they understand what they may see happening. Since parents of other children and other community members (e.g., foster grandparents, school board members, student teachers, classroom volunteer tutors) may be in the building, they might witness a student in crisis. There might also need to be some discussion with other students so that they feel safe, but also so that they can understand that restraint is being used to protect the child who is being restrained. In any of these discussions, it is important to protect confidentiality, but techniques and reasons for restraint can be discussed in general terms.

If questions or issues arise, make sure staff know where to direct those individuals – to the principal and/or the special education director. Sometimes non-school personnel and visitors, as well as school staff who might not be directly involved with a student, have questions or may misinterpret a situation. It is important for them to understand what is being done is for the protection of the student and/or others.

Documentation is Key

➤ In the IEP

- Clearly define and describe behaviors that will result in seclusion/restraint.
- Clearly define and describe replacement/alternative behaviors.

➤ Include parent comments under “Concerns of the parents about the student’s education” in the IEP.

➤ Written procedures for staff.



It is often difficult to clearly and accurately define behaviors. Avoid words such as “appropriate” or “disruptive”. Describe what you will see and/or hear in objective, measurable terms.

For example, “when student is moving around the room throwing objects and kicking furniture” rather than “when student is upset”.

Data Collection

- Be accountable.
- Document how seclusion and/or restraint is used & by whom.
- Look for building and district-wide
 - Patterns
 - Exceptions

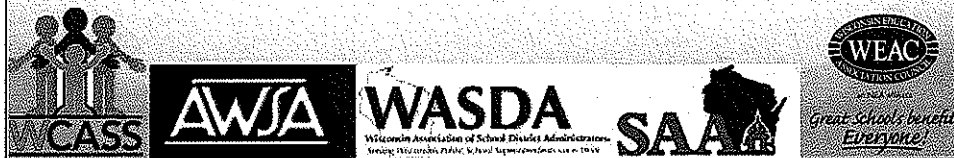


Documentation should be in writing and could include the following examples:

1. Names and job titles of those who conducted the restraint and any observers.
2. Date, time frame, etc.
3. Antecedents or behavior leading to the restraint
4. Description of the restraint
5. Alternatives to the restraint
6. Parent involvement

Data Collection

- **Collect student data & evaluate progress.**
- **Check efficacy and use (behavior should decrease/cease).**
- **If behavior continues, reconvene IEP.**



Data collection pertains to best practices in general for special education classrooms. It may include behavioral charts, point sheets, etc. The use of restraint and seclusion should reduce or extinguish the identified behavior. If this is not the case, alternatives to restraint and seclusion should be explored. A review of the IEP may be warranted.

Provide Training

- Require personnel to be trained before administering restraint (except if no one is immediately available and there is an emergency & then get assistance ASAP).
- Training should include the crisis cycle and interventions to be considered before restraint is administered.



It is important to ensure that staff who will use restraint have the **information and training** necessary. The risks in using physical restraint are high, and inappropriate use of restraint has caused injury and even death, as well as lawsuits.

Training must include the continuum of interventions, not just techniques for restraint. Anyone who will be using (or potentially using) restraint must have knowledge of:

- The student;
- The student's IEP and BIP;
- The restraint technique to be used;
- Events precipitating the use of the technique;
- Follow up requirements (reporting/documenting, contacting parents); and,
- Any cautions or contraindications, both physical and psychological.

The content of training should include:

- Continuum of intervention options;
- Preventing a crisis;
- A model of phases of a crisis cycle, including suggestions for intervening at each phase;
- Interventions to de-escalate a crisis before physical restraint is necessary;
- Documentation of the use of restraint;
- Practice using restraint techniques and demonstration of beginning level of proficiency of restraint techniques; and,
- Follow-ups to increase staff knowledge and skills, monitor implementation integrity (consistency of implementation across settings, people, times, and so on), and problem solving as needed.

It is important to have more than one staff person trained in physical restraint. The responsibility for implementing restraint should not fall to one person, as that person may not always be available. In addition, having a team trained together allows staff to support each other and the students, and provides for a common language regarding behavioral intervention techniques.

Local Procedure (Chain of Command)

- **Develop local complaint procedures for parents to include:**
- meeting with Principal;
 - meeting with Director of Special Education;
 - meeting with Superintendent.



Establish a complaint procedure for parents that will be based on the district's chain of command as highlighted on the slide.

Be Prepared

- Discuss potential for crisis ahead of time.
- Make expectations clear to both students and staff.
- Make sure all necessary staff are aware of procedures.



Include physical restraint and seclusion policies and procedures in staff handbooks.

Discuss policies and procedures at faculty meetings.

Be Proactive

- During the first month of school, distribute and review the WCASS PowerPoint presentation and WDPI Directives.
- Identify personnel to receive in-depth training and serve as district resource for seclusion and physical restraint.



Document staff participants, date and time of training of seclusion/restraint presentation and directives, and maintain the documentation on file.

In Conclusion

- It's not the directives that are problematic,
- It's the implementation and/or supervision of the use of seclusion/restraint.



Remember: The dignity and safety of all children and school staff are paramount. Implement the DPI Directives and WCASS 2008 position paper.

Resources

- **WDPI Directives of seclusion and restraint:**
<http://www.dpi.state.wi.us/sped/doc/secrestrgd.doc>
- **Summary of WDPI Directives:**
<http://www.dpi.state.wi.us/sped/doc/secrestsumm.doc>
- **WCASS Position Paper on the website:**
<http://www.wcass.org>



Good morning. I am Julie Brilli elementary principal at Merrill Elementary Healthy Living charter School in Oshkosh, which is part of the Oshkosh Area School District. I am here as part of a team including a parent, police school liaison officer, and a teacher of students with emotional behavioral disabilities. Each of us would like to take a minute to express our concern and opposition to SB 468 regarding seclusion and restraint in schools.

Educators choose their vocations because of their deep commitment to serve . . . children, families, and society. Today that commitment must be deeper than ever. The desire must be inclusive of a commitment to serve families and

communities because the challenges of education children extend far beyond the walls of schools. In the schools and districts for which I have been fortunate to work over the past 21 years, I have been among educators who have given themselves unselfishly to the children.

At Merrill Elementary, there is a Danish proverb that is often referred to in our professional conversations that underscores our understanding of the magnitude of our work, “when you take a child by the hand you take a mother by the heart.” This awesome responsibility is not one to be taken lightly; and we don’t. Every decision with every child every day is a decision fraught with care and concern for the immediate well-being of the child while focusing on the horizon and equipping him/her with the

skills necessary to be a contributing member of society in life.

A parent, Becky VanRavenstein, will share her thoughts on the proposed SB 468.

I have a third grade son with special needs. He is served in the emotional behavioral disabilities program at Merrill Elementary. This is his third year in the program and his growth fluctuates. Last year he made tremendous gains socially and emotionally as well as academically. We were considering dismissing him from the program; however, we determined that we would not change his placement until he was into his third grade year and experiencing the same success.

This year he took an unfortunate turn. His behaviors became more aggressive and . . . after a couple of lengthy stays in the children's behavioral unit, he was diagnosed with Bipolar Disorder. His behavior became aggressive and jeopardized the safety of others. He would yell, kick, scream, and strike others; especially the adults that tried to help him. His episodes slowly escalated. Yelling and screaming, behaviors that he was able to contain and control and redirect after 30 – 60 minutes evolved into physically lashing out at others to the point that he had to be secluded and the police contacted to transport him.

I am a single parent and I could not take him home. The school did not want me to go home alone with my son for fear that he would physically harm me; they

are aware that he has done this in the past. My son is 9 years old.

In a previous school, one without a time out room, he was unsuccessful because he did not have anywhere to go to cool down. Since he has transferred to Merrill with the appropriate facilities to address his needs, including a time out room he has been much more successful. In the past if he had an emotional outburst he could spend 25 minutes in the time out room releasing his anger and frustration and would be able to refocus and finish the day in school successfully.

I am happy to report that although my son was struggling earlier in the year, with appropriate counseling, a diagnosis, the right medication, and ongoing support from the teachers and staff at

Merrill, he has not had to spend any time in the time out room nor has he had to be restrained.

I am officer Kari Pettit a police school liaison officer in the Oshkosh Area School District and employed by Oshkosh Police Department.

Before this job I had no understanding of students with emotional behavior disabilities. If I received a call from a school while I was on patrol and observed a child acting the way some of our students behave when they are in crisis, I would have assumed he was acting out intentionally. If other patrol officers are called to respond it is highly unlikely that they will understand our children.

Patrol will be called each time a student is in crisis because this bill does not allow for a common sense approach of educators to respond to students. The options for the police are limited as well. We have no where to go with kids. Our options are to take them home and often parents are not home, take them to the police station, or charge them with a criminal act. However, by experience there have been times that there was a known mental illness in which case the options for care were in the hands of the parents.

I ask you what do you believe is more emotionally damaging for children, having them spend time in a padded, monitored time out room or being zip-tied with their hands behind their back

and hauled out of the school by police officers?

I am Mary Brenzel, I have Master's Degree in Emotional Behavioral Disabilities, and I have worked with self-contained EBD students for more than 20 years.

The time out room as defined in the proposed legislation has a negative focus. It assumes that it is punitive and a negative place for students. In reality it is often used by the students to cool down. They will choose to go there of their own volition when they feel their anger and frustration building. At times they are in there for 10 minutes, sometimes as long as 60 minutes to cool down. The door to the time out room is

only closed when the child becomes violent.

A focus of our program is to teach children social skills. This includes providing them with the coping skills and strategies to recognize when they are becoming angry and out of control and utilizing anger management techniques that they have learned.

Restraining is emotionally exhausting for everyone. It also seems to have the opposite effect on kids. However, if they are a danger to themselves or others, we have no option but to restrain. The proposed bill would discourage all school personnel from exercising this

approach to working with children and would result in many 911 phone calls.

We are a site that serves children with the most challenging disabilities in our district. Many of our students with EBD come to our school after having spent time in mental health facilities. The students need time to transition to the school environment. During this transition period they can become frustrated and violent. Our time out room allows them to safely and privately go to a location until they are able to refocus. The majority of students that spend any time in the time out room are able to rejoin the learning environment.

The students will learn that acting out is a positive reinforcer. They will learn that after they are aggressive for 15

minutes, the police will be notified and they will be brought home. Some of our students will figure this out and use this strategy to get out of school for part or all of a day. This would be counterproductive for them.

Many of the students we serve are able to regain control in 15 minutes. Some students just can't. This arbitrary time is clearly not based on any research. I ask you, when you are angry or frustrated, are you able to magically refocus in just 15 minutes? Why would we expect that of children?

Charlotte A. Price
5566 Cloverland Dr.
Eagle River, WI 54521

February 18, 2010

I am in favor of SB 468.

As a retired teacher, I wish that more information about Positive Behavior Interventions and Supports(PBIS), which is featured in this bill, had been available when I was teaching.

There was very limited parent involvement, therefore I did not have any information about any history of trauma, violence, or emotional turmoil in the students' lives that may have had an impact on their behavior.

I may have inadvertently intensified situations by using behavior control methods popular at the time and still being used today-"My way or the Highway!" Students escalate when teachers send them out of the room, to the office or other rooms for punishment. It becomes too easy just to send the students to the principal or give detentions for smaller and not very significant incidents. Students who receive the same treatment from more teachers, experience undue stress and frustration and we wonder why some kids just explode with emotion and anger.

We were never trained in college or given in-services on how to use Positive Behavior Interventions and Supports to actively teach replacement behaviors, to provide consistent corrective consequences, to be able to recognize early warning signs or triggers, or to implement successful intervention strategies that would have fostered healthy emotional development and interactions with others. I am sorry to say that it was easier to just get the kid out of the room which many times resulted in more inappropriate behaviors and then the fight was on. I am sorry to say that this is still happening in schools today.

I apologize to any students who are being emotionally and physically harmed by outdated and ineffective "behavior mod" techniques.

I also wish that my state teachers union would be fighting for this legislation to ensure that all teachers and students are safe in all schools.

Wisconsin needs this legislation now! ^{to make training mandatory} It would provide schools, teachers, children and parents with more effective, research based tools and methods to use instead of seclusion and restraints, making for better and more productive school days.

Thank you for your support.

Charlotte A. Price

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February 12, 2010

Senator John Lehman, Chair
Senate Education Committee
Wisconsin State Legislature
Sen.Lehman@legis.wisconsin.gov

Dear Senator Lehman:

Please, register my support for SB 468 which promotes positive behavior intervention and support practices by school staff, and aims to reduce the use of aversive interventions on school age children. In particular, I am in favor of the training, reporting and family involvement requirement that sets in place a way to regulate and reduce the use of seclusion and restraint of children.

I am a parent of a 14 year old son who is autistic. My son has behaviors in the school setting that can be challenging, but we have worked closely with our son's school staff to identify safe, respectful and effective strategies that significantly reduce his need to communicate thru challenging behaviors. Examples of challenging behavior: fleeing confusing situations, screaming when he feels overpowered and avoiding tasks that are too hard or meaningless to him. By working together with school staff, our family uses the same strategies school staff use including visual supports (so he can access his strongest learning-style), reducing direct verbal commands (which he often doesn't understand and make him feel overpowered), adapting academic curriculum (so that it is relevant to him and age-appropriate) and fostering relationships with good social-peers (in natural settings). This consistency between the environments he lives in has improved staff moral and increased his educational outcomes, our family's quality of life, and his self-esteem. In the best scenario, he has an understanding peer or adult whom he trusts to help him interpret the situation and model for him how to participate in 'real-life' experiences.

I wish there had been a law in place the first time he was restrained and transported to a seclusion room. He was a terrified and confused Kindergartner; staff were not prepared and I was not aware that the school staff might consider this practice. This situation happened so many times thru his elementary school years that he remained in a secluded classroom most of his day with little exposure to the real world. We finally simply skipped 5th grade and moved him to middle school hoping that might be a better environment to support his needs. Today, he loves to go to school and is supported to experience the regular school community. Honestly, there is still room for improvement but we have seen the best results from positive supports and interventions.

My personal experience with this issue convinces me that a law is necessary. When staff were not prepared; they are left to react. When parents are left in the dark; they feel helpless. When children are treated harshly; their perception of the world is effected.

On behalf of my son and many children in Wisconsin who struggle to manage the school environment, I ask you to support this bill and bring dignity, safety and a sense of belonging to all children. Plato said "Do not train a child to learn by force or harshness; but direct them to it by what amuses their mind, so that you may be better able to discover with accuracy the peculiar bent of the genius of each".

Respectfully,

Dawn Wians
3634 Swoboda Road
Verona, WI 53593

February 17, 2010

Attn: Chair of the Senate Education Committee, Sen. John Lehman.

Regarding: Positive Behavior Interventions and Supports and Seclusion/Restraint

Dear Senator John Lehman;

I am writing this letter as a parent, a member of the community, and a concerned citizen with the hope that it reaches each and every one of you on a level that will encourage a change in how children are affected by seclusion and physical restraints in school. Over the past three years my son Zachary has had an IEP for his behavioral disability/impulsivity/immaturity (these are our psychologists and pediatricians categories). In 2009 we had made the decision to uproot our three children and change schools due to the painful memories and negative affects our son experienced at his first school. I would love to take the time to tell you all about my wonderfully bright son and discuss each situation that happened to him during his 2007-2009 school years; however I find it difficult and heart wrenching to really recall all of that. Therefore, I will tell you that during a 10 month period my son had experienced 43 seclusion in a small closet-like room for excessively long periods of time and he was only released when he completed a full apology at the age of 7-8 years old. Out of these 43 seclusions he was physically restrained 16 times which included holding him to the floor and removing his shoes (because they did not want him to hurt himself with his own shoes...this was common practice from the staff) each time until he walked in or they carried him into the timeout room. During this time we as parents did not receive documentation of the physical restraints and later discovered that there were actually 40 physical restraints documented during a 10 month period and in the end we discovered there were over 86 restraint/seclusions. In addition, the consequence was accompanied by 12 in-school suspensions and 9 out-of-school suspensions, clearly leading to get him out of school. The most difficult part of this is that we were not communicated with the full degree of how many physical restraints my son was experiencing, and what was actually involved in a physical restraint. As parents, we were continually sending our son to his school and he was going through these traumatic experiences and we were not aware of the excessive nature. My son was terrified of his particular school and soon the solutions provided from the staff was to gradually remove him from every group/classroom setting. Our son was placed in a resource room for 3/4 of the day and we did not know...they moved his desk in there and nobody told us. Our search for assistance resulted with incredible support through WI Facets and finally a light was visible for our family and our son. We had three years of struggling with the school that also changed Principals three times as well. At the end of the 3 years, 4 IEPs, 3 FBAs, and 3 BIPs, 3 principals, 1 mediation, and daily heartache of what would physically

happen to our son at that school; we finally changed schools. There is so much more detail I can provide and want to write so you have an full picture of how we truly felt as parents and how Zachary must have felt. Through our continual diligent meetings and refusal to give up on demanding change we have found some success. In the 2009-2010 school year, at a new school (change of staff and scenery) my son got a fresh start and has not experienced any seclusions or physical restraints to date...actually the staff does not even consider this as a method. Restraint is not part of my sons IEP plan for success and since has proved to gradually improve his desire to want to go to school and trust in staff that physical restraints will not happen to him again. Zachary continues to have nightmares of his past experiences at his old school, is mistrusting of adults, cries easily, flinches when adults reach out to him and struggles socially. My light at the end of the tunnel is that no other parents or children should have to experience such pain, fear, mistrust, guilt, stress and heartache again. Parents and children should trust the school system and not feel betrayed. Please end the use of seclusion and physical restraint as a consequence and reserve for emergency situations only. Please communicate to parents openly and promptly. Please REGISTER IN FAVOR of the **2009 SENATE BILL 468** for the use of positive behavioral interventions and supports and aversive interventions in schools. So in conclusion, I implore you to strengthen the current Wisconsin laws regarding these behavioral interventions so that students and staff aren't harmed either physically or emotionally. Remember that confining and restraining a student should be the last resort and only if imminent danger is proposed to the staff or student.

Respectfully,

Jeff and Dawn Schicker (parents of Zachary)

Dear Sir,

I am the parent of a 7 year old with Aspergers, ADHD, Oppositional Defiant Disorder, Gross motor Tic Disorder, who may also be developing Tourette's. He has a total of 12 diagnosis and has many health concerns including abnormal EEGs, seizure concerns, digestive issues, asthma, etc. He is a sweet and brilliant little boy for about 90% of the time. Unfortunately, he also has the propensity towards severe outbursts involving aggression towards others. This is child who was denied an IEP three times by the Kenosha Unified School District, despite qualifying for County Level Crisis Intervention, the in home state intensive autism waiver, and medicaid title 19 services. For the past three years, I have fought the school district we live in for my son to be given an educational assistant at school. He has stabbed kids with pencils in the arm and neck, attacked staff and therapists, and used scissors as weapons, in addition to a myriad of other difficulties including losing 3 pounds over a 6 month span, from not eating lunch at school daily. I finally asked Disability Rights WI for assistance, and now, as of December 14, 2009, he was qualified for an IEP. Sadly his behavior over these three years of neglect by the school district has spiraled out of control. He has grown and his level of high functioning has diminished to the point where I am told by the Director of Special Education, that they would like him put into a secluded classroom for emotionally behaviorally disturbed children. Now I am fighting this, but still he has no educational assistant and still he has no ABA therapy at school. From one extreme to the other, we have now jumped but still the services my son needs are not being provided.

He has been habitually secluded from his peers, often with no record of this being kept. Over the past couple years he was held in the office almost daily, often drawing, eating snacks, making paper airplanes, and missing valuable class / learning time all the while. Much of this occurred during the time we were told he did not qualify for an IEP. During his recent functional behavioral assessment and development of his behavioral intervention plan, the team wanted to include seclusion and restraint, but I did object as well as Disability Rights WI. My objection was based on the fact that I know restraining him is difficult at best and usually makes him escalate behavior, causing a dangerous situation for him and others. We have tried this technique in other settings and learned early on it was not a good method for my son. This was shared with the team, but in the end they overrode my opinions. I was also concerned it would be misused and my son or someone else could be hurt, as happened in an earlier incident in the year, where the principal and dean picked up my son, while he was flailing, and he kicked another student in the face.

Two Mondays ago was the last straw for me. A new little girl to the school was pushing another child into my son in line, he pushed the child back, then she did the same to him, and so it went on, until my son became so upset, he punched this little girl in the stomach. Where the staff was during all this time, no one knows. Eventually someone noticed and staff tried to intervene by grabbing him (he is autistic and tactilely defensive, so unannounced touch is never the right response). He then started to hit and kick them. Keep in mind he is a 47 pound, 7 year old, first grader. They decided to restrain him, but this made him so violent that eventually 3 staff could not keep hold of him and get him to the office. He ran away into a crowded cafeteria at lunch time. When they finally caught him, the principal grabbed him by the ear, and dragged him to the office. I was called to say he was suspended and that I had to come get him. When I did, his ear was swollen and red; he had a nick in it, as well as scratches on his face and neck. I asked him what happened and being quite verbal as many children with Aspergers are, he told me very plainly the entire story.

I immediately brought him to the school district educational support center to speak with the superintendant, who was then unavailable. I was directed to the director of special education, who did look at my son and speak with him and myself at length. At no time did anyone take any photos, or ask the principal to come in and discuss this matter with me. I was told that the director of special education thought he needed a secluded classroom for EBD kids. This principal is still running the school that my child attends as well as quite a few other autistic children, why in a state of mandated reporting I am still not certain.

I have been fighting for three years for positive behavioral intervention and an educational assistant for my son. If it had been provided, I do not think he would ever have gotten to this point. I continue to state that this is what he needs. Positive behavior intervention is one of the only methods research has proven to help these kids. Restraint and seclusion makes them worse, not better.

When a child is failing in math, we teach; when a child is failing in reading, we teach; when a child is failing behaviorally we punish in Wisconsin schools. Our children, and especially our autistic children need to *learn* how to behave, the only way to do this is with positive behavior intervention and supports (PBIS). The added benefit is that it works for all children, not just children like my son, and it is inclusive which is the model for all special needs children. There are multiple levels to the system depending on the needs of the children it services. It keep meticulous data to record what is happening and with whom. This is an approach that keeps kids safe, teaches behavior, helps a broad range of children, and will help to make our schools safer for the students as well as the staff. I am certain the staff involved in that incident no more enjoyed being hurt by my son, than he by them, but they have no other systems in place to deal with him. In work, we have the incentive of a paycheck. In school the children have no incentives. Positive behavior intervention gives kids a reason to want to do well; they experience success and want more success. We also set them up for success in the future. Seclusion and restraint teaches children to use those techniques to deal with their difficulties. All it really is is kid imprisonment during the school day. Wisconsin can do better than this for our children. Please help to make this happen

by passing this bill. My son needs it, and so don't the rest of the children of Wisconsin .

Thank you for your time and taking this matter to heart. It is often difficult to be passionate about something that does not affect someone you know or love, but if you could imagine what it would be like to be a parent to a child such as this and imagine what you would do to help him. Then think about the power you have to make school better not only for the 1 in 91 children with pervasive developmental disorders with this bill, but all children in our state.

Sincerely,

Brandy Jadcak
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Kenosha, WI 53142
262-652-6826
bjadcak@yahoo.com



ST. AEMILIAN-LAKESIDE, INC.
Advancing foster care, education and mental health services

8901 West Capitol Drive Milwaukee, WI 53222
414-463-1880 www.st-al.org

Testimony provided by Tim Grove, Director of the Division of Therapy Services

- St. Aemilian-Lakeside is a non-profit, non-sectarian human service organization, headquartered in Milwaukee, and providing foster care, education, and mental health services that serve over 2,000 children, families, and adults annually. We provide therapy services and teacher consultation in twelve school districts. We also operate an independent charter school, Capitol West Academy, and, through our subsidiary, Integrated Family Services, we provide ongoing case management and safety services for the Bureau of Milwaukee Child Welfare.
- My role is the Director of the Division of Therapy Services. I oversee our Residential Treatment program, our therapeutic school, and our two care coordination programs. I am the leader of our implementation of trauma informed care, providing training and case consultation to further our staff expertise, I am a certified Crisis Prevention Institute trainer and have lead our agency's trainers' group, and I am the liaison to Dr. Bruce Perry of the Child Trauma Academy in Houston. We have received extensive training and clinical consultation from Dr. Perry to assist us in our trauma informed work.
- The issue of reduction of seclusion and restraint is one we have devoted significant time, focused energy, and many staff resources to over the past three years. What started for us as a simple ad hoc committee to refresh our crisis intervention training has evolved into a transformative shift in our service delivery, across our entire organization. This shift has been created by developing our expertise in the philosophy and practice of trauma informed care. We serve children with significant mental health issues and behavioral challenges and it is evident that many of them have experienced trauma.
- The discussion of reduction of seclusion and restraint is a parallel process to the initiative within the mental health and human service provider arenas. In Wisconsin, St. Aemilian-Lakeside has been very invested in this reform initiative. I serve on the Department of Health Services' training and technical assistance committee on trauma informed care. Our staff have attended many state sponsored trainings on this topic and how it interfaces with trauma informed care. And we knew Angie Arndt, a precious and challenged little girl who lived with one of our dedicated treatment foster families. Angie died in a restraint and many of us are determined to never forget Angie and to ensure that her legacy is a commitment to the reduction of seclusion and restraint.
- And since we work in schools and school districts throughout southeastern Wisconsin and operate both an independent public charter school and a therapeutic school for residential treatment consumers and school district students, we can anticipate what this discussion and the ensuing process may bring for schools. Within our own services we have experienced (and likely will continue to experience) challenges just as schools will face, but despite these challenges, we have found the quest to reduce seclusion and restraint to be a worthy endeavor. The question that has faced those in our business, how do I deal with a child

whose behavior is escalating without seclusion or restraint? is a question that schools will encounter...and on a small scale, we believe we have found some answers.

- Specifically we have found that collaboration is the essential ingredient to the reduction of seclusion and restraint. All stakeholders need to be committed to coming together to tackle difficult issues, and to openly communicate what is happening, what is working, what needs to be changed...
- In schools these stakeholders include parents, teachers, students, and administrators... all with the belief that a reduction in seclusion and restraint practices is possible, is critical, is essential to create a safe and successful school environment that fosters student success and academic achievement.
- We have found success in using positive behavioral interventions and supports as well as trauma informed, sensory-based interventions. Our focus is on understanding the story of our children's lives. This requires a significant perspective shift to ask the 'what has happened to you' question instead of 'what is wrong with you' in order to design interventions with and for them that work. We have seen an increase in our use of creative strategies for behavior regulation and a reduction in the use of restraint. We have found that understanding brain development and neurodevelopmental profiles can help target individualized behavioral strategies that are effective. As we advance on this journey, we are accumulating quite a library of positive outcomes and success stories. Like Alex, and Joe, and Tobias, and many others...
- We acknowledge that the mental health, behavioral and developmental issues that present in the school setting are more complex and challenging then ever before and that we support the investment of time and resources into early intervention, giving front line teachers the skills and resources to form positive relationships with students, to deescalate effectively, and keep themselves, the student and his/her classmates safe.
- Our purpose today is not to purport to be experts in the reduction of seclusion and restraint but to share our story with the goal to attest to the healing and hope that can be created when you shine the light on the goal to reduce seclusion and restraint. For students, parents, teachers, and administrators this journey may be challenging but can ultimately produce the desired outcome. At St. Aemilian-Lakeside, within the scope of our organization's experience, the results have been transformative.
- Despite the difficult emotions and challenging discussions that the issue of reduction in seclusion and restraint can sometimes create, we believe that there is room for common ground which includes the sincere belief that the primary focus is what is best for all children.
- Thank you for the opportunity to share St. Aemilian-Lakeside's journey. We plan to be active participants in this important discussion in the months and years ahead.



**Testimony on SB468
Senate Committee on Education**

**Shel Gross, Director of Public Policy
Mental Health America of Wisconsin**

Mental Health America of Wisconsin urges your support of SB468, which we believe will benefit both students and schools.

We can all agree that limiting the use of seclusion and restraint procedures in schools is in everyone's best interest. Fortunately utilizing positive behavior intervention and support (PBIS) can help achieve this. But its impact goes beyond this. As a board member of the Wisconsin Prevention Network (WPN) I received this email from one of our members:

I served as a Middle School Counselor in Charles County Maryland public school system. PBIS was active for several years when I worked there in 2005. I saw a decrease in suspension rates and a HUGE spike in the positive rapport with at-risk youth. Kids started seeing a positive peer pressure situation and soon kids were "checking" other kids on their behavior. I liked it because it demonstrated that Yes, good things come your way if you make good choices and I think that is accurate.

Another one of our WPN members reported similar results in a school district in Wisconsin. So this approach is not simply theory: we know it works to improve school climate. And this will facilitate learning.

Of course, there may still be times when seclusion and restraint are required, but hopefully this will be greatly reduced. The bill allows use of seclusion and restraint but ensures that staff are trained so they can implement it in a manner which maximizes safety for the staff and the student. Importantly the bill also increases parental notification and involvement in decision-making about use of these procedures. I am sure you will hear, if you have not already, many stories of parents learning well after the fact what has happened to their children in school.

SB468 is a feasible approach to address an unacceptable situation. The testimonials I have heard convince me that the effort required to implement PBIS will pay off big time. Ultimately our schools will be able to focus more energy on their primary mission; educating our children.

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TESTIMONY IN FAVOR OF SB 468

Jan Serak, WI FACETS Executive Co-Director

Thank you, Senator Lehman and committee, for the opportunity to speak on this important topic. WI FACETS is the U.S. Department of Education's Parent Training and Information Center serving Wisconsin. WI FACETS is funded, under the Individuals with Disabilities Education Act Part (IDEA), to ensure that parents receive training and support to help improve results for their children with disabilities. WI FACETS is confident this legislation will contribute to academic and behavioral success for children

Last year, our Parent Center assisted over 48,000 parents and others who contacted us. We supported parents at 193 school meetings. For over 14 years, WI FACETS has received about 75 calls/year (often many more) from parents and school staff seeking help with seclusion and restraint situations. Parents have reported their children being duct-taped to desks, spending all day in a Rifton chair, being held in prone restraint on the floor, being locked in unsupervised rooms, and otherwise traumatized. This is just the tip of the iceberg. There are many more children in these situations that we do not hear about.

- ♦ Most parents who contact us are in shock after finding their child was secluded or restrained – often as a long term intervention, rather than just a temporary safety measure. Most parents are not asked for their consent to use these measures. They often find out from other parents, staff or students. Teachers call us, usually anonymously, to ask if we will contact a parent to let them know that seclusion or restraint is being used with their child. Some parents find out when they research the source of strange marks appearing on their child or when they try to find out why their child balks at getting on the school bus. SB 468 would require schools to get parent consent and to keep them informed if seclusion/restraint is used.
- ♦ Many parents do not know when, how often, or what circumstances led to the use of seclusion and restraint. Some parents are able to get an incident report. Some parents find that reports show that measures were inappropriately used for behaviors that did not place the student or others at risk of harm (as, noncompliance, threats, disruption). More often, parents find no records were kept and are told that there is no law to keep any records. SB 468 would require documentation.
- ♦ Parents often report that staff members using seclusion/restraint measures have not received training on PBIS, non-violent crisis intervention, or the appropriate use of seclusion and restraint. Teachers who contact us also have reported that some staff in their school were “trained” by “reading PowerPoint notes on a website.” SB 468 requires WDPI-approved staff training.
- ♦ Most parents acknowledge their child's complex behavioral needs. They also worry their child is losing precious academic learning time while in seclusion/restraint. They sometimes find seclusion/restraint worsens their child's behavior. Many parents report these measures being implemented without *comprehensive, function-based positive behavioral intervention plans*. The National PBIS TA Center has documented that schools that implement PBIS demonstrate reductions in problem behavior and improved academic outcomes. SB 468 supports academic progress and PBIS.

WI FACETS supports SB 468 and believes it will ensure a safer, more productive learning environment for children and school personnel alike. As the parent of a young adult with autism, I urge your support.

